

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

MASS ENGINEERED DESIGN, INC., and)	
JERRY MOSCOVITCH,)	
)	
Plaintiffs,)	
Counter-Defendants,)	
)	
v.)	CASE NO.: 2-06CV-272 (LED)
)	
ERGOTRON, INC., CDW)	JURY TRIAL DEMANDED
CORPORATION, TECH DATA)	
CORPORATION, CSAV, INC. and DELL)	
INC.,)	
)	
Defendants,)	
Counterclaimants,)	
)	
and)	
)	
DELL MARKETING L.P.,)	
)	
Intervenor-Defendant and)	
Counterclaimant.)	
)	

ORDER

This matter is before the Court on the parties Joint Motion to Vacate a Portion of the Court’s Order and Judgment and Dismiss Claims Regarding the ‘170 Patent. Based on the arguments of counsel, the representation of a settlement between the parties, and upon all the files, records and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The portion of the Court’s May 7, 2009 Final Judgment [Dckt. No. 745] stating: “Mass and Mr. Moscovitch are not liable for infringement of U.S. Patent No. 5.673,170 (the “‘170 Patent”) on the bases that (i) Mass and Mr. Moscovitch are found to

have an implied license on the '170 Patent, and (ii) Dell and Dell Marketing are equitably estopped from asserting the '170 Patent against Mass and Mr. Moscovitch" is hereby vacated.

2. The portion of the Court's April 17, 2009 Memorandum Opinion and Order [Dckt. No. 741] regarding equitable estoppel and implied license defenses to the '170 patent, appearing on pages 30-37, is hereby vacated.

3. All claims on the '170 patent, including cross-claims, counterclaims and defenses, between Dell Inc., Dell Marketing L.P., Mass Engineered Design, Inc., and Jerry Moscovitch, are dismissed with prejudice, each party to bear its own costs and expenses.

4. All other aspects of the Court's Memorandum Opinion and Order and Final Judgment, including its rulings related to the '978 patent, remain binding and in force.

So ORDERED and SIGNED this 10th day of June, 2009.

A handwritten signature in black ink, appearing to read 'Leonard Davis', with a large, stylized loop at the end.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**